

GOVERNMENT OF ANDHRA PRADESH

**A B S T R A C T**

Public Services – C.T. Department – Sri G. Venkateswarlu, Deputy Commissioner (CT) – confirmation of provisional decision to include his name in the panel of Assistant Commissioner (CT) for the year 1992-93 and to assign notional seniority with effect from 15.1.1994 on par with his junior duly relaxing rule 33 (a) of A.P. State and Subordinate Service Rules – Orders – Issued.

**Revenue (CT-I) Department**

G.O.Rt.No.433

Dated:20-3-2010

Read the following:-

- 1.Representation of Sri G. Venkateswarlu, A.C. of C.T. dept.,dt.7.7.97.
2. Government., Memo.No.6061/CT.I(1)/97-3, dated:13.7.1998.
3. Government memo.No.6061/CT-1/1/97-6, dated: 18.1.99.
4. G.O.Rt.No.201, Revenue (CT-I) Department, dt.4.2.2005.
- 5.From C.C.T., Hyd. Ref.No.D2/427/99, dt.15.5.2009.

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**ORDER:**

In the reference 1<sup>st</sup> read above, Sri G. Venkateswarlu, Assistant Commissioner (CT) has represented that he was appointed as Direct Recruit Commercial Tax Officer in G.O.Ms.No.548, Revenue, dated: 5.6.1987 and in the merit list of the Direct Recruits; he was placed between Sri M. Pampathi and Sri D. Venkateswar Rao at Sl.No.9. When he received the appointment orders as C.T.O. he was undergoing training at Indian Forest College, Dehradun as a probationer of India Forest Service. To facilitate him to relinquish giving his service after one month's advance notice to the Government of India, as per the service rules, he had requested the Government to give extension of joining time by one month in June, 1987. Since he did not receive a communication from the Government of A.P. in time he could not join as C.T.O. along with others on or before 6.8.1987. He further stated that had the Government given him extension of one month's time in June, 1987, he would have joined as C.T.O. in July, 1987 and acquired five (5) years of service as C.T.O. as on 31.8.1992 making him eligible for inclusion in the panel of ACs (CT) for 1992-93 along with his batchmates. Sri G. Venkateswarlu, Assistant Commissioner (CT) has finally requested to consider his name for inclusion in the panel of Assistant Commissioners (CT) for the panel year 1992-93 on par with his juniors. He has referred to the precedent case of Sri K. Raghavaiah, Assistant Commissioner(CT) who was included in the 1992-93 panel year vide G.O.Rt.No.669, Revenue, dated: 29.1.1997.

2. The Commissioner of Commercial Taxes in his report has stated that there were 27 vacancies of ACs(CT), and a panel of C.T.Os fit for promotion as A.Cs(CT) was drawn for the year 1992-93. Those, who were fully qualified as on 1.9.1992, were included in the panel. Since the applicant Sri G. Venkateswarlu did not complete 5 years of qualifying service as on 1.9.1992, he was not considered for inclusion in the panel while his juniors, who completed minimum qualifying service of 5 years were included. Thus name of Sri G. Venkateswarlu although considered by the D.P.C. for inclusion in the panel of ACs (CT) for the panel year 1992-93 he was passed over as he had not put in the minimum required length of service as per the A.P.C.T. Service Rules.

3. Subsequently the applicant Sri G. Venkateswarlu has been included in the panel of C.T.Os fit for promotion as ACs(CT) for the year 1993-94 vide G.O.Ms.No.625, Revenue (CT-I) Department., dt.30.6.1994, as he completed 5 years of minimum qualifying service in the C.T.O. cadre and was promoted as Assistant Commissioner(CT) vide G.O.Rt.No.936, Rev. (CT-I) Department, dt.30.6.1994. He joined as A.C.(CT) on 15.7.1994. But his immediate junior Sri D. Venkateswara Rao was included in the panel of C.T.Os fit for promotion as A.Cs (CT) for the year 1992-93 vide G.O.Ms.No. 1341, Rev. (CT-I) Department., dt.31.12.1993 and was promoted as Assistant Commissioner (CT) vide G.O.Rt.No.2075, Rev. (CT-I) Department., dated: 31.12.1993 and joined as A.C. (CT) on 22.1.1994.

4. In his representation dated: 7.7.1997, Sri G. Venkateswarlu requested the Government that he may be included in the panel of Assistant Commissioner (CT) for the year 1992-93 in relaxation of Rule 4 of A.P.C.T. Service Rules by placing his name above Sri D. Venkateswara Rao and below Sri M. Pampapathi. Government have examined the request in detail and provisionally decided vide Government Memo.No.6061/CT-I(1)/97-3, dt.13.7.1998 for inclusion of the name of Sri G. Venkateswarlu in the panel of A.Cs (CT) in the panel year 1992-93 by placing him above his junior Sri D. Venkateswara Rao, A.C.(CT) and below Sri M. Pampathi, A.C. (CT), by assigning notional date 15.1.1994 i.e., the date of his immediate junior in relaxation of rule 4 of A.P.C.T. Service Rules and also rule 33 (a) of A.P. state and Subordinate Service rules subject to issuance of show-cause notices to the persons likely to be affected. The provisional decision was communicated to CCT. and he was requested to issue show cause notices to the persons likely to be affected and to send the objections received if any, along with remarks.

5. The Commissioner of Commercial Taxes, in his letter dated: 9.9.1998 has stated that a show cause notice was issued to all the persons likely to be affected by the provisional decision of the Government and it was published in the A.P. Gazettee Part-II No.29, dated: 13.8.1998 and that objections on the show cause notice have been received from certain officers.

6. It is further observed that in this case while taking the provisional decision by the Government in reference 2<sup>nd</sup> read above, rule 4 of the defunct rules i.e., rules issued prior to the issue of G.O.Ms.No.360, Revenue dept., dated: 23.4.1994, was relaxed which have no application now. The A.P.C.T. Service rules were issued in G.O.Ms.No.360, Revenue Department, dated: 23.4.1994 in supersession of all the rules issued earlier, hence the present rules will be in operation and the earlier rules have no application now. Government have therefore examined the matter and cancelled the provisional decision taken in the Government memo. No.6061/CT-I//97-3, Revenue, dt.13.7.1998 vide Government Memo. even No., dated: 18.1.99.

7. Aggrieved by the above orders, Sri G. Venkateswarlu, D.C., has filed O.A.No.573/99, before the A.P.A.T., to set aside the said orders with all consequential benefits. While disposing off the above O.A. the Hon'ble Tribunal in its order, dt.19.2.2004 has set a side the orders issued in Government memo.No.6061/CT-1/1/97-6, dated: 18.1.99 and directed the Government to implement the orders of the Tribunal and grant all the consequential benefits including monetary benefits due to the applicant as proposed in the show-cause notice vide Government Memo. No. 6061/CT-1/1/97-3, dated: 13.7.98 and issue consequential orders.

8. Government have again examined the matter, and issued orders vide G.O.Rt.No.201, Rev. (CT-I) Department., dt.4.2.2005, to implement the orders of the Hon'ble A.P.A.T., in O.A.No.573/99, orders dated: 19.2.2004 and also accepted the recommendations of the Review D.P.C. on 16.11.1998 to include the name of Sri G. Venkateswarlu, in the panel of ACs for the year 1992-93 and to assign him notional date of promotion as Assistant Commissioner (CT) with effect from 15.1.1994 on par with his junior Sri D. Venkateswar Rao duly withdrawing the cancellation orders issued in Government Memo.No.6061/CT-I/1/97-6, dated: 18.1.1999.

9. In his letter in reference 5<sup>th</sup> read above, the Commissioner of Commercial Taxes has reported that Sri G. Venkateswarlu has filed representation befo-re him requesting that his seniority may be restored over and above his junior Sri D. Venkateswara Rao, Joint Commissioner(CT) in compliance of the orders in O.A.No.573/99, dt.19.2.2004 and G.O.Rt.No.201, Rev. (CT-I) Department, dt.4.2.2005 and he also requested that in the modified panels to be drawn in respect of

Deputy Commissioner (CT) he may be placed above Sri D. Venkateswara Rao in the cadre of Deputy Commissioner (CT) and Joint Commissioner(CT). In his report the Commissioner of Commercial Taxes stated that Government vide G.O.Ms.No.1715, Rev. (CT-I) Department, dt.04.02.2005 has placed the name of Sri G. Venkateswaralu above Sri D. Venkateswarlu in the regular panel of Assistant Commissioner (CT). He further informed that the Government is competent to take action to assign notional seniority in the cadre of Deputy Commissioner and Joint Commissioner(CT) in terms of APAT orders in O.A.No.573/99, and G.O.Rt.No.201 Revenue (CT-I) Department, dated: 4.2.2005.

10. Government have examined the request of Sri G. Venkateswarlu, in para above for inclusion of his name in the panel of Deputy Commissioner on the basis of notional seniority and observed that the orders issued in G.O.Rt.No.201, Revenue (CT-I) Department, dated: 4.2.2005 for inclusion of name of Sri G. Venkateswarlu in the panel of Assistant Commissioner (CT) for the year 1992-93 are without relaxing the rule 33 (a) of APSS Rules, 1996 and Business Rule, hence after careful examination of the matter Government decided to cancel the orders issued in G.O.Rt.No.201, Revenue (CT-I) Department, dt.4.2.2005 and decided to include of the name Sri G. Venkateswarlu, afresh in the panel of Assistant Commissioner (CT) for the year 1992-93 and assign him notional seniority with effect from 15.1.1994 on par with his juniors duly relaxing Rule 33 (a) of APSS Rules, 1996 as per Business Rules.

11. Accordingly the Government, while rescinding the orders issued in G.O.Rt.No.201, Rev. (CT-I) Department, dated: 4.2.2005 hereby order to include the name of Sri G. Venkateswaralu in the panel of Assistant Commissioner (CT) for the year 1992-93 and to assign him notional seniority w.e.f. 15.1.1994 on par with his junior Sri D. Venkatesara Rao duly relaxing Rule 33 (a) of APSS Rules, 1996.

The Commissioner of Commercial Taxes shall take further action in the matter.

( BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA  
PRINCIPAL SECRETARY TO GOVERNMENT

To  
The concerned through the Commissioner of Commercial Taxes, A.P.,  
Hydeabad.  
The Commissioner of Commercial Taxes A.P., Hyderabad.

// FORWARDED BY :: ORDER //

**SECTION OFFICER**